

FEDERAL PUBLIC DEFENDER

NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION
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CONFIDENTIAL - ATTORNEY WORK PRODUCT

MEMORANDUM TO ATTORNEY

TO: Cynthia C. Lie
FROM: Catherine Ward Neece *CWN*
DATE: December 18, 2007
RE: United States v. Elmer Ochoa-Alvarez
CR 07-00434 RMW
WITNESS: Aurora Alvarez
Telephone: 011 504-757-3811

On December 5, 2007, and December 10, 2007, I contacted the defendant's mother, Aurora Alvarez, at the telephone number listed above. Also on the calls was Spanish interpreter, Thelma Oros Fotedar.

Alvarez was advised that I am an investigator with the Office of the Federal Public Defender which has been appointed to represent her son, Elmer Ochoa-Alvarez, in his case currently pending in the United States District Court, Northern District of California, San Jose Division. Alvarez agreed to speak to me.

Alvarez said that she is the mother of Elmer Ochoa-Alvarez, and that she was born in 1941. Her husband, the defendant's father, is named Alejandro, and he was born in 1940. Alvarez said that she gave birth to eleven children, ten boys and one girl. Alejandro is the father of all of her children. The children's names and dates of birth are:

Ermelo whose date of birth was November 26, 1959.
Javier whose date of birth was December 3, 1962.
Ceaser whose date of birth was in 1963.
Osman whose date of birth was in 1965.

Alexis whose date of birth was in 1966.

Marcos Abudlio whose date of birth was January 5, 1967, and who died on May 3, 1989.

Elmer (the defendant) whose date of birth was February 12, 1972.

Marvin who was born in 1974.

Angelica whose date of birth was August 29, 1976.

Ronald whose date of birth was in 1979.

Danery whose date of birth was in 1982.

Alvarez explained that all of the boys had to work very hard when they were little children in order for the family to have enough food to eat. The family lived in a small village named San Nicholas in Honduras. The family was very poor, and the children barely had clothing, Alvarez said. The house that they lived in was one room and it did not have any beds. They divided the space with card board to give privacy.

It was necessary that the boys began working early in the morning before they went to school. The boys would leave the house at 4:30 a.m. each school day, Alvarez said, and the boys had to walk about one hour to get to the place where they worked. All of the boys went to school, except for Ermelo, who is deaf and mute.

Alvarez said that the family owned a small piece of land, but that it was not large enough to support their family and the boys also had to work for other farmers. The work that the boys did was very physical.

Alvarez said that her husband is still alive, but he suffered a stroke twenty-one years ago. Since then, the family has been supporting him because he is unable to work.

Her children were very obedient, Alvarez said, but Alejandro still would beat all of the children regularly. He was very rough with them, she said, and he left bruises on their backs. Alvarez said that she was helpless to stop him from hurting the children and she had to just watch as he abused them. Alejandro also beat her, she said, and he would do so if she interfered in the punishment of the children.

Alvarez recalls that Alejandro had a stick that had a nail on the end of it, and that he would use this to hit the children if they did not work the way that he wanted them to. He would also make the children kneel and hold their arms up in the air while holding heavy rocks in their hands..

Alejandro also would punish the children by tying a rope made of leather around the children's necks and suspending them from the rafters in the barn, Alvarez said. She said that she remembers that once, Alejandro tied a rope around Elmer's neck and then hung him from a tree. Alejandro left Elmer there until Elmer's tongue hung out before he cut him down.

Another time, Alvarez said that she can specifically recall that Alejandro sent Elmer out

when he was about fourteen years old to get water for a burro. Elmer came back very late and he made Elmer kneel down and then he beat him very badly.

In around 1997, Alvarez said that she recalled that Elmer was stabbed in the stomach after being attacked by a group of men. The men were members of a gang which is known as the Maras, or Cholos, Alvarez said.

Regarding the circumstances of the stabbing, Alvarez said that she learned that Elmer was followed by several men and that he was attacked by them. This happened in a small town some distance from where the family lives. Alvarez said that she does not recall the name of the small town. She was told that Elmer was found lying on the ground and that he was close to dead. Elmer was taken to a hospital by bystanders. The hospital was the Hospital Escuela in Tegucigalpa, Honduras. He stayed in the hospital for about one week. Elmer has scars on his stomach from when he was stabbed, she said.

Alvarez said that she does not know why the gang members did this to Elmer. For some reason, these men have something against their family, Alvarez said. About the time of Hurricane Mitch, two of Elmer's uncles were also killed by the same gang. Alvarez said that she begged Elmer to leave Honduras and come to the United States to avoid any more trouble with this gang.

Alvarez said Elmer also had problems with this gang in 2004 or 2005. While Elmer was at a house owned by his sister, Angelica, the Mara fired gun shots into her house.